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ABSTRACT

This paper discusses the professional ethics of education and what it requires. After an introduction, the second section deals with the nature of professional ethics, clarifying a variety of ethical principles. The defining traits of an education profession and the ethical issues involved are discussed. The third section focuses on common requirements of professional codes: a commitment to heightened standards of conduct; a commitment to competence; a commitment to diligence; the duty of reasonable communication; and the duty to report official misconduct. The fourth section applies the common requirements of professional codes to higher education. Appended are 27 reference notes. (SI)

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PROFESSIONAL ETHICS IN EDUCATION: A NEGLECTED ISSUE

David B. Annis

I. INTRODUCTION

Professional ethics, as it applies to education, be it higher education, secondary or elementary education, has tended to be a neglected area. Although we have the American Association of University Professors' Statement on Professional Ethics and the National Education Association's Code of Ethics of the Education Profession, the professional ethics of education certainly has not received the extended discussion that medical and legal ethics has received.[1]

One need only examine a few issues of the National Law Journal (a weekly newspaper for attorneys) to see that professional ethics receives considerable attention in the legal profession. Examining the pages of the Hastings Center Report (a journal concerned with ethical issues in medicine, the life sciences, and the professions) reveals that ethics as it applies to health care providers also is treated very seriously. But look at publications associated with education. Unprofessional conduct may be described or reported, but rarely is there any discussion of the professional ethics of education or what it requires. When you think about this for a moment, it is somewhat shocking.

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It suggests that educators do not take the professional ethics of education seriously.

Public interest in professional ethics, however, has increased in recent years. Dramatic scandals such as Watergate in part explains this. The consumer rights movement also has sparked a greater interest. As the public has become more assertive of its rights, and less tolerant of inadequate service, it has demanded better conduct of professionals. In addition, the public's growing dependence on professionals has made us more concerned with their conduct. As society has become more complex and technology has advanced, we have come to rely more on professionals to help maintain our health, and our legal, financial, business, and political affairs. This growing dependence has increased the power of professionals and made the public more vulnerable, and also more wary.[2]

II. THE NATURE OF PROFESSIONAL ETHICS

Ethics deals with what acts are morally right or wrong, what our moral obligations are, what the conditions are under which we are morally responsible for our acts, what moral rules or principles are justified, what traits or dispositions are morally good or bad, that is, virtues or vices, what things are desirable from a moral point of view, and related issues.[3] Professional ethics deals with the same issues only it examines them in terms of one's professional

role or the role of a profession in society, for example, what acts are right or wrong given one's professional role, what are one's professional obligations, etc.[4]

In assessing conduct, whether it is in our professional lives or our everyday, non-professional life, we may use a variety of ethical principles. Utilitarianism requires us to consider the consequences of our actions on human welfare. Does our conduct harm individuals or does it benefit them? Surely this is a relevant moral consideration when evaluating a person's conduct. Deontologists such as Immanuel Kant stress the principle of respect. Human beings have intrinsic worth, are ends-in-themselves, and are never to be treated as a mere means. The Golden Rule would have us treat others in the way we wish to be treated. Principles of justice are also relevant when evaluating conduct. Are we treating similar cases in a similar way? Are we basing our decisions only on relevant criteria? Is there discrimination involved? Are we violating someone's rights? Have people been given equal opportunity?[5]

If we look at various occupations, some can be categorized as <u>unskilled</u> (hauling trash, sweeping streets), <u>skilled</u> (a tool and die maker), and some may be viewed as professions. Not all occupations that are categorized as professions share the same features, but there are several traits that are central.[6]

First, a profession requires knowledge of a fairly large body of specialized and interrelated or systematized

information. Second, because of the necessary knowledge, extensive intellectual training and education involving higher-level cognitive functioning is required. Although certain physical skills may be acquired, the stress is on intellectual skills. Third, the practice of the profession is essentially intellectual in nature. One is required to apply the specialized body of information and general principles to diverse situations, to use the specialized knowledge and skills to make warranted inferences and solve problems within the profession. Fourth, the knowledge, skills, and resulting services provided by the practitioners are important to society. They serve important interests of individuals, as well as the public good. Without the medical and legal professions, without engineers, architects, business and financial consultants, many of our individual and common interests would suffer greatly.

The above traits are central to an occupation counting as a profession. Other common features (which may be usual but not necessary) include an organization of the members, a certification process, and promulgation and enforcement of a code of professional ethics.

A career in education as a teacher satisfies the four defining traits of a profession. It requires extensive intellectual training to acquire the skills and knowledge relevant to one's discipline, and many of the central tasks of a teacher are intellectual in nature. The communication of that knowledge, the development of skills in students,

and the discovery of new knowledge serve important individual and public interests.

Education abounds in ethical issues. There are moral issues in teaching, e.g., who to teach, what to teach, problems of evaluating students, cheating, student-teacher relations, and many more. School-teacher relations is a rich domain of ethical issues. Just think of governance, hiring, evaluating, promoting, and paying teachers. School-student issues such as admission procedures and criteria, financial aid, disciplinary rules, and the fees to be charged also involve moral questions. Relations between educational institutions and the wider public, including state and federal governments, is another source of ethical problems. What is hard to believe is that one could look at education and fail to see that most important questions facing education involve ethical considerations. And yet this is exactly what we have done! It is as if we are morally blind when it comes to questions involving education. To shed some light on our ethical responsibilities in education, some common requirements of professional codes in diverse areas will be examined.

III. SOME COMMON REQUIREMENTS OF PROFESSIONAL CODES

One common feature of professional codes is the commitment to heightened standards of conduct. For example, the American Bar Association highlights "its goal of

assuring the highest standards of professional competence and ethical conduct."[7] The Code of Ethics for Engineers states that "engineers must perform under a standard of professional behavior which requires adherence to the highest principles of ethical conduct...."[8] And the Code of Ethics for social workers affirms that the "social worker should maintain high standards of personal conduct..." and "the highest standards of professional integrity."[9] Furthermore, many of the codes require not merely adherence to the highest standards of conduct, but that one avoid even the appearance of any impropriety.[10]

These codes thus do not promote minimalism, the idea that one need only satisfy requirements of minimally acceptable behavior. Instead professionals are to be judged against high standards, standards that require more than the minimal. For example, in our ordinary dealings with people, we do not always have to be diligent to provide accurate information. But in our professional role we may be required to do so. Again, in our everyday life, we may be able to talk fairly freely about our dealings with people. But in our professional capacity we may have to be much more careful about confidentiality.

There are several factors that make it reasonable to hold professionals to high standards of ethical conduct. First, as already noted, professions provide important or vital services to the public. Second, the professions also tend to have a monopoly on the services provided, so that

others outside the profession may not provide the service. Third, professions are frequently self-regulating. The profession may control standards for admission and promulgate and enforce the professional code. Given these three conditions, if the professions were not held to high standards of ethical conduct, it would have a detrimental impact on the welfare of the public. There are thus good utilitarian reasons for imposing high standards. We also can justify this requirement from a contractarian point of view. Society has an important stake in the delivery of professional services. If society grants monopolistic and self-regulatory power to the profession, a reasonable condition of this grant is that the profession be held to high standards of ethical conduct in the delivery of these services. This seems to be a fair exchange that reasonable parties might agree to.[11]

A further argument for high standards is based on trustworthiness. Professionals usually have greater expertise within the profession than their clients. We trust professionals to provide us with accurate information, to carefully analyze problems, to recommend good solutions, etc. The nature of the relationship between the professional and client requires trust. Given how vital the professional service may be, being worthy of our trust implies living up to high standards of professional conduct.[12]

Essential to professional codes is a commitment to competence.[13] Without such a commitment, professionals would

not be worthy of our trust. Competence implies that one has the necessary knowledge and skills. It also implies that one will continue to study, learn and enhance one's knowledge and skills to remain competent. A failure to keep abreast of new information in one's field or specialty, may involve not only a violation of professional ethics, but it also may constitute negligence or malpractice. For example, it has been held that it is malpractice for an attorney not to do legal research or to keep up on recent court rulings.[14] Many professional codes explicitly require that one only perform work that one is competent to do. Hence, if one does not have the required knowledge or skills, one must either acquire it or refer the client to a professional who is competent in the problem area.

Being diligent--actively, promptly, and carefully performing one's professional tasks--is closely related to, but distinct from competence. One can possess the requisite knowledge or skills, be competent, and yet fail to diligently pursue one's tasks.

Many professional codes call for diligence. The ABA's Model Rules states that "A lawyer shall act with reasonable diligence and promptness in representing a client." And it adds, "Perhaps no professional shortcoming is more widely resented that procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal

position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness."[15]

In response to complaints about the failure to be diligent, professionals frequently respond that they are under time pressures. When the pressure of time is due to a failure to effectively manage time or to taking on too many clients, this is not a justified defense. Some codes have explicitly noted this. Thus the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes states, "It is a basic professional responsibility of an arbitrator to plan his or her work schedule so that present and future commitments will be fulfilled in a timely manner."[16]

Most professional codes require practitioners to protect the confidentiality of client information.[17] But few codes require professionals to communicate with clients so they are informed. This has been a major issue in medicine. Although the American Medical Association's Principles of Medical Ethics does not include a duty to inform the patient, the Current Opinions of the Judicial Council requires informed consent.[18] The ABA's Model Rules requires lawyers to "keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information."[19] But it is one of the few codes that imposes a duty of communicating with the client.

The failure to communicate violates client autonomy, frequently causes harm to his or her interests, and fails to show respect for the client. Hence, the duty of reasonable communication should be part of professional codes.

Another common, but by no means universal requirement, is the duty to report official misconduct.[20] Since professionals frequently have a unique expertise that lay people do not have, the professional is often in a better position to be aware of professional misconduct. Hence, a system of peer reporting may be necessary, if a profession is to be adequately supervised. Self-regulation certainly requires some kind of peer reporting system. This is clearly justified by utilitarian and contractarian arguments, and by considerations of trustworthiness. The ABA has acknowledged that self-regulation requires such reporting.[21]

IV. THE PROFESSIONAL ETHICS OF HIGHER EDUCATION

To help us understand some of our ethical obligations in education, let's apply some of the common requirements of professional codes to higher education. (A similar discussion will have to take place for secondary and elementary education.) Given the almost universal commitment to heightened standards of ethical conduct to be found in professional codes, one would expect it to be part of a code for the academic profession. But while the AAUP Statement on Professional Ethics notes that the professor is to hold

before his or her students "the best scholarly standards of the discipline," there is no commitment to high or the highest standards of ethical conduct.[22] The National Education Association's Code of Ethics of the Education Profession explicitly endorses this requirement.[23] Given the importance of the goals of higher education, the academic profession should be held to heightened standards, and there should be the additional commitment to avoid even the appearance of impropriety.

If faculty are to be held to heightened standards of review, what are some of our research and teaching obligations? Many colleges and universities require faculty to do research, but is this a reasonable requirement from the point of view of a professional code of ethics? Professional codes must include a commitment to competence. This implies that one has the necessary knowledge and skills, and that one maintain one's competence. One can hardly help students master a body of knowledge and acquire the skills relevant to a discipline without continued study to keep abreast. Hence, the competence requirement, applied to the teaching goal, implies that faculty are required to do scholarly work. I doubt that faculty would dispute this, but on occasion at least, one wonders just how seriously this obligation is taken.

Should the academic profession in addition require faculty to make original contributions and extend knowledge in the discipline? If faculty teach graduate courses or even

undergraduate courses to advanced students in the discipline, it is hard to believe that faculty could be on "the cutting edge" of their discipline and not be engaged in original research. At the advanced level, one is not simply presenting information, but is critically evaluating it, proposing different perspectives, etc. It is unlikely one could do this without engaging in original research.

Furthermore, maintaining one's competence in a field may imply engaging in original research. Maintaining competence does not simply mean keeping informed. Usually there are a variety of skills associated with a discipline. For example, philosophy requires using logic to carefully evaluate arguments and conceptual analysis to explain and clarify concepts. Among other things, philosophy involves keen analytical skills and good imagination. Part of graduate education in philosophy is the development and sharpening of these skills. They are developed through use, and the claim I want to make is that they are maintained through use, so unless one engages in original research, it is doubtful that one is maintaining his or her competence.

Although the AAUP Statement on Professional Ethics does not explicitly mandate original research, it does come very close to such an endorsement. It states, "The professor, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognizes the special responsibilities placed upon him. His primary responsibility to his subject is to seek and state the truth as he sees it.

To this end he devotes his energies to developing and improving his scholarly competence. He accepts the obligation to exercise critical self-discipline and judgement in using, extending, and transmitting knowledge."[24]

Many academicians view faculty who do original research as model or ideal faculty members. Faculty who do not engage in such research may still be viewed as satisfactory or even good. But the argument above implies that faculty doing original research are not acting beyond the call of duty; they are simply acting in a professional way, a way that is to be expected. And faculty who do not do original research are acting unprofessionally.

The competence, diligence, and communication obligations have a number of implications for teaching. Wilbert McKeachie, in his well-know book Teaching Tips: A Guidebook for the Beginning College Teacher, discusses a number of issues to help faculty be good teachers. In his chapter, "Countdown for Course Preparation," he states that "The first step in preparing for a course is the working out of course objectives, because choice of text, the selection of the type and order of assignments, the choice of teaching techniques, and all the decisions involved in course planning should derive from your objectives."[25] But how many of us bother with goals or are careful about them? And think about textbook selection. Research shows that the text is a major influence on what students learn. "There is no

substitute for detailed review of the competing texts for the course you are teaching."[26] Again, how many of us are diligent when it comes to textbook selection?

Preparing tests, grading and returning them, and assigning grades are additional responsibilities we have. But it is doubtful that faculty satisfy their obligations in these areas. There is a large body of scientific information on testing and grading, and yet most faculty have never had tests and measurement courses. Constructing a good test and grading it reliably are not easy tasks. But without knowing the scientific information readily available, our chances of doing these tasks competently is quite low.

The diligence and communication obligations imply that we should return tests and papers promptly, that we should inform students how they are doing in the course, and that we explain to them the basis of our evaluation, so they do not just receive a grade on a paper with or without terse remarks.

The argument is not simply that good teachers do these things, so that those who do not are poor teachers. The point is that these are professional obligations. Failing to do these things means that we are acting unprofessionally, unethically. We do not satisfy the conditions necessary to be worthy of the public trust.

Faculty excuse their behavior by citing lots of demands on their time--doing research, refereeing manuscripts, service responsibilities, advising students, teaching, etc.

But part of what we expect of a professional is an effective manager of time. If our lack of promptness is due to being an ineffective manager, that is not a justified excuse. If we are truly overworked, then we are obligated not to take on so many responsibilities. When a lawyer accepts so many clients that he or she cannot zealously represent their interests, that is unprofessional conduct. A university may impose too many responsibilities on faculty; if so, then the university bears at least some responsibility for causing the unprofessional conduct, and it should be held accountable.

A common feature of the professions is a fair degree of autonomy or individual discretion in the person's work. Practitioners typically exercise a high degree of individual judgment. This is certainly true in the profession of higher education. But wide discretion also may lead to ethical problems, a failure to live up to one's professional responsibilities. The trick of course is to allow the needed autonomy to perform teaching, research, and service activities, but to ensure responsible conduct. To find that fragile balance requires considerable discussion by the academic community.

The above initial examination includes some of our duties with regard to research and teaching . But there are many more obligations that we have in higher education. If we are to take our responsibilities seriously, there must be more discussion of what our professional obligations are.[27]

And we need to carry on the same discussion for education in general, not simply higher education. Education students need to be made aware of their ethical responsibilities, e.g., in a professional ethics course. Education faculty obviously have a crucial role to play in discussing the ethics of education. Silence on the issue bespeaks too loudly, and what it says is we care not.

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NOTES

1. American Association of University Professors, Statement on Professional Ethics, 1964. National Education Association, Code of Ethics for the Education Profession, 1975. These are reprinted in Codes of Professional Responsibility (ed.) Rena A. Gorlin (Washington, D.C.: Bureau of National Affairs, 1986). Notice how recent these codes are in comparison to when the associations were founded--1915 for AAUP and 1857 for NEA.

2. Michael Bayles, Professional Ethics (Belmont, Calif.: Wadsworth Pub. Co., 1981). The Ethics of Legislative Life, A Report by the Hastings Center (Hastings-on-Hudson, N.Y.: Institute of Society, Ethics and the Life Sciences, 1985), p. 4f. Bruce Jennings et al., "The Professions: Public Interest and Common Good," Hastings Center Report 17(1987):3-10.

3. An excellent introduction is William Frankena's Ethics (Englewood Cliffs, N.J.: Prentice-Hall, 1979).

4. Bayles, Professional Ethics. Alan H. Goldman, The Moral Foundations of Professional Ethics (Totowa, N.J.: Rowman and Littlefield, 1980).

5. For a discussion of utilitarianism, Kant's theory, and principles of justice, see Frankena's Ethics.

6. Bayles, Professional Ethics, p. 7-8. John M. Rich, Professional Ethics in Education (Springfield, Illinois: Charles C. Thomas, 1984)

7. American Bar Association, Model Rules of Professional Conduct, 1983, p. xi, hereinafter cited as ABA Model Rules.

8. Gorlin, Codes of Professional Responsibility, p. 257.

9. Gorlin, Codes of Professional Responsibility, p. 162.

10. Gorlin, Codes of Professional Responsibility, Arbitration p. 6,7,8, Judiciary p. 31, Government p. 200, Banking p. 252.

11. For contractarian approaches to professional ethics see Bayles, Professional Ethics, and Goldman, The Moral Goundations of Professional Ethics.

12. See Ch. 4 of Bayles' Professional Ethics for a discussion of trustworthiness.

13. ABA, Model Rules, p. 3, Gorlin, Codes of Professional Responsibility, Dentistry p. 88, Medicine p. 101, Psychology p. 140, Nursing p. 156, Social Work p. 163, Accounting p. 238, Architecture p. 246, Engineering p. 258.

14. Victor Levit, "Malpractice: The Tactic is Prudence," The National Law Journal, May 23, 1988, p. 17-22.

15. ABA, Model Rules, p. 4.

16. Gorlin, Codes of Professional Responsibility, p.22.

17. See the codes in Gorlin, Codes of Professional Responsibility.

18. Gorlin, Codes of Professional Responsibility, p. 121-122.

19. ABA, Model Rules, p. 4, 5.

20. ABA, Model Rules, p. 33, Gorlin, Codes of Professional Responsibility, Dentistry p. 88, Medicine p. 101, Social Work p. 167, Government p. 197, Engineering p. 257, Real Estate p. 272.

21. ABA, Model Rules, p. 33.

22. Gorlin, Codes of Professional Responsibility, p. 184.

23. Gorlin, Codes of Professional Responsibility, p. 191.

24. Gorlin, Codes of Professional Responsibility, p. 183.

25. Wilbert McKeachie, Teaching Tips: A Guidebook for the Beginning College Teacher (Lexington, Mass.: D.C. Heath, 1986), p. 8.

26. McKeachie, Teaching Tips, p. 12.

27. This discussion is starting in higher education. There are two recent books on the professional ethics of higher education: George M. Robinson and Janice Moulton, Ethical Problems in Higher Education (Englewood Cliffs, N.J.: Prentice-Hall, 1985) and Steven M. Cahn, Saints and Scamps: Ethics in Academia (Totown, N.J.: Rowman and Littlefield, 1986). MacMillan will be publishing a collection of essays entitled The Ethics of Higher Education in 1990 and Temple University Press is publishing one entitled Studies in Academic Ethics scheduled for 1990. For related activities, see "Rash of Ethical Lapses Spurs

Colleges to Study Their Moral Responsibilites," The Chronicle of Higher Education XXXV (#21, Feb. 1, 1989),p. A11, A14.